

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

- I. THE APPLICATION OF METRO MOBILE CTS OF )  
POWELL, INC., A KENTUCKY CORPORATION, )  
FOR ISSUANCE OF A CERTIFICATE OF PUBLIC )  
CONVENIENCE AND NECESSITY TO PROVIDE )  
DOMESTIC PUBLIC CELLULAR RADIO )  
TELECOMMUNICATIONS SERVICE TO THE )  
PUBLIC IN THE KENTUCKY RURAL SERVICE )  
AREA WHICH INCLUDES POWELL, ESTILL, )  
WOLFE, LEE, JACKSON, OWSLEY, BREATHITT, )  
PERRY, KNOTT, AND LETCHER COUNTIES IN )  
KENTUCKY, FOR APPROVAL OF FINANCING, )  
AND FOR ESTABLISHMENT OF INITIAL RATES ) CASE NO. 91-410  
)  
II. THE JOINT APPLICATION OF METRO MOBILE )  
CTS OF POWELL, INC. AND ALPHA CELLULAR )  
TELEPHONE COMPANY, A FLORIDA GENERAL )  
PARTNERSHIP, FOR THE TRANSFER OF THE )  
ASSETS AND LIABILITIES OF METRO MOBILE )  
CTS OF POWELL, INC. TO ALPHA CELLULAR )  
TELEPHONE COMPANY AND OF RELATED )  
FINANCING )

O R D E R

On November 1, 1991, Metro Mobile CTS of Powell, Inc. ("Metro Mobile") filed an application seeking a Certificate of Public Convenience and Necessity to provide public cellular radio telecommunications service, for approval of financing, and for establishment of initial rates in Rural Service Area No. 10 ("RSA No. 10") which includes Breathitt, Estill, Jackson, Knott, Lee, Letcher, Owsley, Perry, Powell and Wolfe counties in Kentucky. Concurrently, Metro Mobile and Alpha Cellular Telephone Company ("Alpha Cellular") filed a joint application for approval of the

transfer of the assets and liabilities of Metro Mobile to Alpha Cellular and of related financing.

A Certificate of Public Convenience and Necessity for construction is not required since Metro Mobile will utilize an existing tower for the initial cellular site in RSA No. 10. Although Metro Mobile prefers to provide initial cellular service in Hazard, Kentucky (the "Hazard Site"), it cannot commit to this site until a favorable judgment is received on a major amendment application pending at the Federal Communications Commission ("FCC"). A copy of the FCC decision must be filed with the Commission before the Hazard Site is utilized. If the Hazard Site cannot be utilized as proposed, Metro Mobile plans to provide initial cellular service in Jackson, Kentucky. If an existing tower is not utilized, a Certificate of Public Convenience and Necessity is required prior to commencing construction.

The Commission finds that Metro Mobile has the financial, technical, and managerial abilities to provide reasonable cellular telecommunications service to the public in RSA No. 10. Metro Mobile has access to a \$2,824,044 line of credit issued by NovAtel Finance, Inc., a wholly owned subsidiary of NovAtel Communications, Ltd. The Commission finds that this proposed financing is for a lawful object within the corporate purpose of Metro Mobile, is consistent with the proper performance of Metro Mobile of its service to the public and will not impair its ability to perform that service, and is reasonably necessary and appropriate for such purpose.

The Commission further finds that Metro Mobile's proposed tariff and price list should be approved with the exception of Original Pages 16 and 22. These pages should be revised as follows:

1. Original Page 16, Section 3.7.C. A late payment penalty may be assessed only once to each delinquent monthly bill for services. Any payments received should be applied first to the bill for services rendered. Additional penalties assessed to subsequent monthly billings may not be assessed on unpaid penalty charges.

2. A utility may require a deposit in accordance with 807 KAR 5:006, Section 7, to ensure payment of bills and a telecommunications utility may charge non-recurring and flat recurring monthly charges in advance; however, usage charges must be billed in arrears.

Alpha Cellular is a Florida partnership which holds a non-wireline license from the FCC for Rural Service Area Kentucky No. 9 ("RSA No. 9"). On December 19, 1991, the Commission granted Alpha Cellular authority to provide domestic public cellular radio telecommunications service in RSA No. 9.<sup>1</sup> On December 10, 1991, Alpha Cellular and Metro Mobile entered into a purchase agreement

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<sup>1</sup> Case No. 91-377, The Application of Alpha Cellular Telephone Company, A Florida General Partnership, For The Issuance of A Certificate of Public Convenience And Necessity To Provide Domestic Public Cellular Radio Service To The Public In The Rural Service Area Which Includes Elliott, Lawrence, Morgan, Magoffin, Johnson, Martin, Floyd and Pike Counties In Kentucky, For Approval of Financing, And For Establishment of Rates.

wherein Metro Mobile will sell and Alpha Cellular will purchase all tangible and intangible assets necessary for the operation of the non-wireline cellular system in RSA No. 10, including the FCC permit and any other licenses or authorizations granted by this Commission.

A copy of the tariff that Alpha Cellular proposes to utilize after completion of the transfer has been filed. The proposed tariff is substantially the same as the one approved in Case No. 91-377 for Alpha Cellular's service in RSA No. 9. The proposed rates are fair, just, and reasonable, but Section 3.7.D of the tariff must be revised to eliminate the late payment penalty of 1 and 1/2 percent per month. A late payment penalty may be assessed only once on each delinquent monthly bill. Any payment received should be applied first to the bill for service rendered. Additional penalty charges in subsequent bills cannot be assessed on unpaid charges.

IT IS THEREFORE ORDERED that:

1. Metro Mobile be and it hereby is granted a Certificate of Public Convenience and Necessity to provide domestic cellular radio service in RSA No. 10.

2. Metro Mobile's proposed financing be and it hereby is approved.

3. Metro Mobile's rates and tariffs be and they hereby are approved, except as noted in the findings above, effective for services rendered on and after the date of this Order.

4. Within 30 days from the date of this Order, Metro Mobile shall file its tariff sheets pursuant to 807 KAR 5:011, setting out the rates and tariffs approved herein.

5. Metro Mobile's transfer of all assets, liabilities, and certificates to Alpha Cellular be and it hereby is approved.

6. Within 30 days of the closing of the proposed transfer, Alpha Cellular shall give notice to the Commission of the closing.

7. Alpha Cellular's proposed post-transfer tariff is hereby approved with the revision to Section 3.7.D specified herein, effective for services rendered on and after the date of completion of the transfer.

8. Within 30 days of the date the transfer is completed, Alpha Cellular shall file its tariff sheets pursuant to 807 KAR 5:011, setting out the rates and tariffs approved herein.

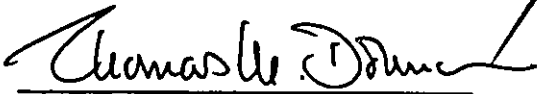
9. The Certificate holder shall notify the Commission within 30 days after initial operations have commenced as to the exact location of the initial cellular site.

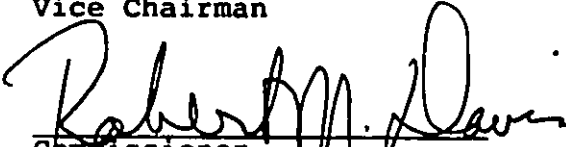
Nothing contained herein shall be construed as a finding of value for any purpose or as a warranty on the part of the Commonwealth of Kentucky or any agency thereof as to the securities authorized herein.

Done at Frankfort, Kentucky, this 9th day of January, 1992.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director